

legal rights as widow, and standing by the provision made for her by the will of her husband, became a purchaser of said provision with a fair consideration, and that she hoped that it would have been paid, but, that said Fayette and Edward Gibson failed or neglected to pay the same, while they owned and occupied said real estate, and that the several purchasers, and owners thereof, have since refused to pay the same, pretending that said land was not bound therefor, &c.

The parties to the bill are Fayette Gibson, and those who now hold, or are interested in the lands supposed to be charged with the annuity; the other devisees of Jacob Gibson not being made parties.

Various defences are set up by the answers, the first of which is, that the annuity was no charge upon the land, but a mere personal obligation upon the devisees, Edward R. and Fayette Gibson, and there can be no doubt, that though the land may be charged, the devisees are personally responsible also. *West vs. Briscoe*, 6 *Harr. & Johns.*, 460.

Assuming, however, that this annuity was also a charge upon the land, and perhaps since the case of *Severson vs. Crawford*, decided by the Court of Appeals at December term, 1847, it would be difficult to maintain the contrary, the question still remains, whether, at this late period, and under the circumstances of this case, a Court of Equity will lend its aid to enforce it against the parties from whom the recovery is now sought. It may, however, not be unworthy of remark, that this being an annuity of uncertain duration, there may be reasons which might influence the court not to treat it as a charge, which would not apply to a legacy or other claim which could be at once paid off.

The answers rely upon limitations, lapse of time, and that the defendants who now hold the property are *bona fide* purchasers, for valuable consideration, without notice.

With regard to the defence of limitations it is said, that this annuity being in lieu of dower at law, is, like the claim of dower, exempt from the statute, and I am not prepared to say the position is not a sound one, though so far as these defend-